

IN RE: PETITION FOR ZONING VARIANCE  
NW/8 Estate Road, 325' SW of  
Shirley Manor  
(322 Estate Road)  
4th Election District  
3rd Councilmanic District  
Frank Buccini, et ux  
Petitioners

\* BEFORE THE  
\* DEPUTY ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 91-489-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 5'9" in lieu of the minimum required 10 feet and a sum of the side yards of 25 feet in a D.R. 3.5 zone, for an alleged existing carport in accordance with Petitioner's Exhibit 1.

The Petitioners appeared, testified, and were represented by Walter I. Seif, Jr., Esquire. Appearing as Protestants in the matter were Dolores Munter, Gardner R. Long and Ronald Wilson.

Testimony indicated that the subject property, known as 322 Estate Road, consists of 0.2424 acres zoned D.R. 3.5 and is improved with a single family dwelling and attached garage as depicted on Petitioner's Exhibit 1. The Petitioners were advised to file the instant Petition as a result of a complaint filed concerning the garage. Frank Buccini testified Petitioners purchased the subject property 25 years ago at which time a carport existed on the property in the location of the subject garage. Mr. Buccini indicated that in 1983, he obtained a razing permit (see Petitioner's Exhibit 2) to remove the carport and a building permit (see Petitioner's Exhibit 3) to replace same with a new carport in the same location. Testimony indicated that the structure is attached to the residence and is enclosed on all three sides with garage doors on the front of the structure facing the

driveway. Mr. Buccini testified upon completion of construction, the building was fully inspected by County inspectors. Testimony indicated that to require strict compliance with the B.C.Z.R. would result in practical difficulty and financial hardship.

Gardner R. Long, adjoining property owner at 320 Estate Road, appeared and testified in opposition to the relief requested. Mr. Long introduced photographs depicting the carport as it existed many years ago and the present garage attached to the dwelling. Mr. Long testified that he is experiencing water runoff problems as a result of the grading done around the garage, and further, that Petitioners have allowed service garage activities to take place within the structure on previous occasions. Another member of the community stated that she too has observed service garage activity taking place inside the garage.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

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After due consideration of the testimony and evidence presented, in the opinion of this Deputy Zoning Commissioner, the relief requested should be granted, subject to restrictions. It should be noted that the Petitioners requested a variance for a minimum sum of the side yards of 25 feet; however, Petitioner's Exhibit 1 indicates the subject property has a sum of 25.10 feet, and as such, meets the minimum requirement. Therefore, this variance request is unnecessary and shall be dismissed as moot.

As to the side yard setback variance, the evidence presented was clear that the Petitioner obtained a building permit to erect a carport, while in actuality, what the Petitioner constructed was a garage. There is also evidence indicating the Petitioner has performed service work on vehicles inside the subject garage. Testimony indicated that there is still a very large compressor located inside the garage. However, in the opinion of this Deputy Zoning Commissioner, to require complete removal of the garage would be unreasonable and unnecessarily burdensome for Petitioners without any benefit to the community. The testimony indicated the structure has been in existence since 1983 without complaint until the present time. Therefore, the relief requested shall be granted, but for a carport, not a garage, and Petitioners will be required to convert the existing structure to a carport as a condition of this Order. To grant the relief requested for a carport would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted, subject to the restrictions set forth below.

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THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 15th day of September, 1991 that the Petition for Zoning Variance from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 5'9" in lieu of the minimum required 10 feet for a carport, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded and Petitioners would be required to file a new Petition.
- 2) Petitioners shall convert the existing structure to a carport by removing the three walls of the existing structure that are not a common wall with the dwelling. This shall include removing the garage doors and wall on the front of the structure, the wall on the side nearest the property at 320 Estate Road and the wall to the rear of the structure. Said conversion shall be completed and documented proof of same submitted to this Office within sixty (60) days of the date of this Order.
- 3) Within thirty (30) days of completion of said conversion, Petitioner shall submit a revised site plan incorporating the terms and conditions of this Order.
- 4) There shall be no service garage work performed within the structure or on the subject property at any time.
- 5) Upon request and reasonable notice, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order in the event it becomes necessary to do so as a result of a complaint.
- 6) The Petitioner has thirty (30) days from the date of this Order to take an appeal of this Decision. In the event that the Petitioner does not appeal this Decision, then by virtue of no appeal being taken, the Petitioner hereby consents and agrees to be bound by the restrictions stated above and hereby agrees to satisfy the requirements of these restrictions.

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PETITION FOR ZONING VARIANCE  
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 91-489-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 5'9" in lieu of the minimum required 10 feet and a sum of the side yards of 25 feet in a D.R. 3.5 zone, for an alleged existing carport in accordance with Petitioner's Exhibit 1.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

Garage and fence were erected under Permits issued by Baltimore County, Maryland and to remove same would be a financial hardship.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

|                               |   |
|-------------------------------|---|
| Contract Purchaser:           | Legal Owner(s):   |
| (Type or Print Name)          | Frank Buccini   |
| Signature                     | Signature   |
| Address                       | Elsie Buccini   |
| City and State                | (Type or Print Name)  |
| Attorney for Petitioner:      | Signature   |
| Walter I. Seif, Jr.           | 322 Estate Road 526-5377  |
| (Type or Print Name)          | Address Phone No.   |
| Signature                     | Reisterstown, Md. 21136   |
| 2328 West Joppa Rd., Suite 15 | City and State  |
| Address                       | Name, address and phone number of legal owner, contract purchaser or representative to be contacted |
| Lutherville, Md. 21093        | Name  |
| City and State                | Address Phone No.   |
| (301) 337-4984                |   |
| Attorney's Telephone No.:     |   |

ORDERED By The Zoning Commissioner of Baltimore County, this 26th day of September, 1991, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 28th day of August, 1991, at 9:30 o'clock

ESTIMATED LENGTH OF HEARING - 1/2HR. +1HR.  
AVAILABLE FOR HEARING  
MON./TUES./WED. - NEXT TWO MONTHS  
ALL OTHER  
REVIEWED BY: JWA DATE 6-29-91 (over)

Zoning Commissioner of Baltimore County.

the restrictions stated above and hereby agrees to satisfy the requirements of these restrictions.

IT IS FURTHER ORDERED that the Petition for Zoning Variance to permit a minimum sum of the side yards of 25 feet in a D.R. 3.5 zone, be and is hereby DISMISSED as moot.

TMK:bjs

TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

111 West Chesapeake Avenue  
Towson, MD 21204

September 12, 1991

887-3353

Walter I. Seif, Jr., Esquire  
2328 W. Joppa Road, Suite 15  
Lutherville, Maryland 21093

RE: PETITION FOR ZONING VARIANCE  
NW/8 Estate Road, 325' SW of Shirley Manor  
(322 Estate Road)  
4th Election District - 3rd Councilmanic District  
Frank Buccini, et ux - Petitioners  
Case No. 91-489-A

Dear Mr. Seif:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

cc: People's Counsel

File

All Protestants

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Beginning for the same on the northwest side of Estate Road (50 feet wide), approximately 325 feet southwest of the southwest side of Shirley Manor Road (50 feet wide) and running

- 1.) by a line curving to the right with a radius of 1550.00 feet for a distance measured along the arc, of 78.38 feet, which arc is subtended by a chord bearing S 59° 00' 42" W 78.37 feet,
- 2.) N 29° 32' 15" W 139.48 feet,
- 3.) N 56° 48' 35" E 71.30 feet,
- 4.) S 32° 26' 05" E 142.22 feet to the place of beginning

Containing 0.2424 Acres of land, more or less.

Being Lot 21, Block "C", Plat Two, Section One Suburbia, recorded among the Land Records of Baltimore County, Maryland in Plat Book W.J.R. 26 folio 89 and known as number 322 Estate Road.

**CERTIFICATE OF POSTING**  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 7-1 Date of Posting: 7/16/91

Posted for: Frank Buccini, et ux

Petitioner: Frank Buccini, et ux

Location of property: 322 Estate Road, Towson, Maryland 21204

Location of Sign: 322 Estate Road, Towson, Maryland 21204

Remarks: None

Posted by: Signature Date of return: 7/25/91

Number of Signs: 1

**CERTIFICATE OF PUBLICATION**  
TOWSON, MD. 7/26/91

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7/25/91.

THE JEFFERSONIAN,  
S. Zabe Olson  
Publisher

\$ 32.83

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning

**COPY**

111 West Chesapeake Avenue  
Towson, MD 21204

DATE: 7/27, 1991

**NOTICE OF HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 91-489-A  
M/S Estate Road, 325' SW of SE/S Shirley Manor Road  
322 Estate Road  
4th Election District - 2nd Councilmanic  
Petitioner(s): Frank Buccini, et ux  
HEARING: WEDNESDAY, AUGUST 21, 1991 at 9:00 a.m.

Variance to allow a side yard setback of 5 ft., 9 inches in lieu of 10 ft. and a minimum sum of 25 ft.

Zoning Commissioner of Baltimore County

cc: Frank Buccini, et ux  
Walter I. Seif, Jr., Esq.  
Gary Leviton  
David Whitaker  
Mr. Long

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning

111 West Chesapeake Avenue  
Towson, MD 21204

July 23, 1991

Walter I. Seif, Jr.  
2328 West Joppa Road, Suite 15  
Lutherville, MD 21093

RE: Item No. 465, Case No. 91-489-A  
Petitioner: Frank Buccini, et ux  
Petition for Zoning Variance

Dear Mr. Seif:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE MINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,  
James E. Dyer  
JAMES E. DYER  
Chairman  
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. & Mrs. Frank Buccini  
322 Estate Road  
Reisterstown, MD 21136

Baltimore County  
Zoning Commissioner  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

Account: R-001-6150  
Number

Date: 7/30/91

891J0465

| PUBLIC HEARING FEES       | QTY | PRICE   |
|---------------------------|-----|---------|
| FOR ZONING VARIANCE (1FL) | 1   | \$35.00 |
| TOTAL:                    |     | \$35.00 |

LAST NAME OF OWNER: BUCCINI

Please Make Checks Payable To: Baltimore County  
891J0465-03-91 \$35.00

Cashier Validation

Baltimore County  
Zoning Commissioner  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

Account: R-001-6150  
Number

Date: 91-489

891J0465

Please Make Checks Payable To: Baltimore County  
891J0465-03-91 \$35.00

Cashier Validation

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning

**COPY**

111 West Chesapeake Avenue  
Towson, MD 21204

887-3353

DATE: 7/30/91

Frank and Lisle Buccini  
322 Estate Road  
Reisterstown, Maryland 21136

RE:  
Case Number: 91-489-A  
M/S Estate Road, 325' SW of SE/S Shirley Manor Road  
322 Estate Road  
4th Election District - 2nd Councilmanic  
Petitioner(s): Frank Buccini, et ux  
HEARING: WEDNESDAY, AUGUST 21, 1991 at 9:00 a.m.

Dear Petitioner(s):

Please be advised that \$ 35.00 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

ZONING COMMISSIONER  
BALTIMORE COUNTY, MARYLAND

cc: Walter I. Seif, Jr., Esq.

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning

111 West Chesapeake Avenue  
Towson, MD 21204

887-3353

Your petition has been received and accepted for filing this  
26th day of June, 1991.

Arnold Jardon  
ARNOLD JARDON  
DIRECTOR

Received By:  
James E. Dyer  
Chairman,  
Zoning Plans Advisory Committee

Petitioner: Frank Buccini, et ux  
Petitioner's Attorney: Walter I. Seif, Jr.

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines  
Zoning Commissioner

DATE: July 16, 1991

FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning

SUBJECT: Robert Dean Steele, Item No. 2  
Michael L. Heil, Item No. 5  
Thomas A. Back, Item No. 464  
Frank Buccini, Item No. 465  
Anthony Catalfo, Item No. 471  
James F. Svel, Jr., Item No. 478  
Dana R. Gift, Item No. 492  
John C. Adamiak, Item No. 494  
Najib Baha Amin, Item No. 496  
Lloyd Blumenfeld, Item No. 500  
Patrick S. Malone, Item No. 501  
Kenneth A. Queensberry, Item No. 502  
Barbara Black, Item No. 504  
Martin Hahn, Item No. 506  
Terrence Lee Maskol, Item No. 507  
Greg M. Hall, Item No. 511  
Lawrence Bartal, Item No. 513

In reference to the Petitioners' requests, staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

ITEMS:VAR.1ED/ZAC1

Rec'd  
7/17/91





